

REMARKS

Claims 11 to 15 have been canceled because, as the Examiner correctly noted, they are duplicates of claims 6 to 10. Thus, the claims before the Examiner are claims 3 and 6 to 10.

The continuing rejection of claims 3, 6, and 11 under 35 USC 103 as unpatentable over Swan et al. '056 or Hubbell et al. '914 in view of Chai-Gao et al. '802 is respectfully traversed. Applicants submit with respect that the arguments presented in the Request for Reconsideration filed May 24, 2004 are appropriate and are still applicable. The Examiner is referred to those arguments. Applicants say with respect that the argument presented in that last response regarding the ability of the instant application to enable one of ordinary skill in the art to practice the invention as claimed is not an invitation or an admission that the subject matter as such would have been obvious to a person of ordinary skill in the art at the time of the invention. There is no proper direction given in the primary references to form a material as claimed and it is believed that only by improper resort to hindsight can one assert that the secondary reference is a proper suggestion to

one of ordinary skill in the art to arrive at the present invention.

The justifications for the rejections appearing in Sections 9 to 11 on pages 7 and 8 of the Office Action are noted. The Examiner is thanked for developing his positions further. Applicants respectfully submit that those justifications only emphasize how the references have been interpreted, not in light of what they fairly teach or suggest, but rather in what the Examiner seeks to extract therefrom and artificially to create a correspondence between what is claimed and what the references teach the artisan. There is no proper motivation in the art to make the present invention. The Examiner acknowledges that the primary references contain a number of general teachings. Those teachings do not suggest even with the secondary art the claimed subject matter.

The comments in Sections 9 and 10 about which component is used for coupling and which component is coupled are noted. Claim 3 specifies in the wherein clause that the dextran is attached to the carrier through the component caused by irradiation of the modified aminodextran. The claim is believed clear in stating the relationship between the elements.

Applicants note that a distinct advantage of the use of dextran in the present invention, an advantage not taught or suggested in the prior art, is that in the present context dextran can suppress non-specific binding. See the discussion in the last paragraph of the specification on page 8. The rejection should be withdrawn.

The ongoing rejection of claims 3 and 6 to 15 under 35 USC 103 as unpatentable over Swan et al. '056 or Hubbell et al. '914 in view of Wessa et al. '631 is also respectfully traversed. Again, as in the rejection discussed above, the Examiner is directed to the arguments presented in the Request for Reconsideration filed May 24, 2004. In this rejection, as in the prior rejection, the Examiner refers to an argument made in support of the enablement of the instant application to justify his position that it would have been obvious to use dextran, even when the references when considered properly either singly or collectively do not teach or suggest the use of such materials or the advantages to be gained thereby.

The rejection of claims 3, 6, and 11 under 35 USC 103 as unpatentable over newly cited reference to Sigrist et al. in a September 1992 issue of Bio/Technology is also respectfully

traversed. The Examiner acknowledges that the reference discusses attaching material identified as "biomolecules" to polystyrene by photocoupling. The reference, however, does not teach or suggest using dextran as the coating or TRIMID-modified aminodextran as the photolinker. There is no reason, save the hindsight provided by the instant application, to use those materials in the Sigrist et al. teaching nor is there any discussion therein of the advantages to be gained thereby.

In view of the foregoing revisions and remarks, it is respectfully submitted that claims 3 and 6 to 10 are in condition for allowance and a USPTO paper to those ends is earnestly solicited.

Serial No. 09/694,241

The Examiner is requested to telephone the undersigned if additional changes are required in the case prior to allowance.

Respectfully submitted,

PARKHURST & WENDEL, L.L.P.



Charles A. Wendel

Registration No. 24,453

November 2, 2004

Date

CAW/ch

Attorney Docket No.: CSEM:065

PARKHURST & WENDEL, L.L.P.

1421 Prince Street

Suite 210

Alexandria, Virginia 22314-2805

Telephone: (703) 739-0220